

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LAVISHA ROBERSON, *on behalf of*
J.M.I.C., *a minor*,

Plaintiff,

v.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant.

Case No. 17-CV-843-JPS

ORDER

Plaintiff filed this action on June 16, 2017, alleging that an administrative law judge ("ALJ") of the Social Security Administration erred in reaching a decision denying her application for supplemental security income. (Docket #1). The ALJ's decision was issued April 11, 2016. Plaintiff sought review by the Social Security Administration Appeals Council, which denied review on April 6, 2017. The Council's denial letter advised Plaintiff that she had sixty days (plus five days to permit receipt of the letter) in which to file a civil action challenging the denial of benefits. *See* 42 U.S.C. § 405(g); 20 C.F.R. § 404.901. The actual sixty-fifth day fell on a weekend, so the period expired on the next Monday, June 12, 2017.

Thus, Plaintiff filed this action four days late. The Commissioner filed a motion to dismiss on August 3, 2017, contending that Plaintiff's complaint is untimely. (Docket #9). Plaintiff has not responded to the motion in any fashion, and the deadline for doing so has expired. *See* Civ. L. R. 7(b); Fed. R. Civ. P. 6(d) (providing three additional days to respond to motions served by mail). As a result, the Court treats the motion as unopposed. Civ. L. R. 7(d). In light of Plaintiff's non-opposition to the

motion—including her failure to offer any reasons justifying why her complaint was filed late—the Court finds that the case must be dismissed.

See Bowen v. City of New York, 476 U.S. 467, 479 (1986).

Accordingly,

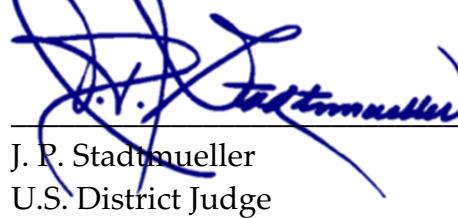
IT IS ORDERED that Defendant's motion to dismiss the complaint (Docket #9) be and the same is hereby **GRANTED**; and

IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED without prejudice**.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 29th day of August, 2017.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge